| 1 | Ben F. Pierce Gore (SBN 128515) PRATT & ASSOCIATES 1871 The Alameda, Suite 425 San Jose, CA 95126 Telephone: (408) 429-6506 | | |
|----|---|--|--|
| 2 | | | |
| 3 | | | |
| 4 | Facsimile: (408) 369-0752 | | |
| 5 | Attorneys for Plaintiff | | |
| 6 | [Additional counsel on signature page] | | |
| 7 | UNITED STATES DISTRICT COURT | | |
| 8 | NORTHERN DISTRICT OF CALIFORNIA | | |
| 9 | SAN FRANCISCO DIVISION | | |
| 10 | | | |
| 11 | UNITED STATES OF AMERICA | Case No. 13-CV-02551 JCS | |
| 12 | ex rel. THOMAS P. THRASH, | | |
| 13 | Plaintiff, | RELATOR'S VOLUNTARY MOTION TO DISMISS WITHOUT | |
| 14 | - against - | PREJUDICE; [PROPOSED] ORDER | |
| 15 | THE COCA-COLA COMPANY and COCA-COLA REFRESHMENTS USA, | | |
| 16 | INC., | | |
| 17 | Defendants. | | |
| 18 | · | | |
| 19 | Relator THOMAS P. THRASH, through his attorneys, moves this Court for an order | | |
| 20 | dismissing this action without prejudice, and states as follows: | | |
| 21 | 1. 31 U.S.C. § 3730 requires that before a Relator can dismiss a suit filed under the | | |
| 22 | False Claims Act, that the United States Department of Justice consent to the dismissal, and that the | | |
| 23 | Court approve the dismissal. | | |
| 24 | 2. On February 6, 2014, the United States Attorney's Office for the Northern District of | | |
| 25 | California ("DOJ"), on behalf of the United States, declined to intervene in this action. | | |
| 26 | 3. On March 3, 2014, Relator noti | fied the DOJ that Relator intended to move for | |
| 27 | dismissal of this action without prejudice as to Relator and the United States. See Declaration of | | |
| 28 | Pierce Gore In Support of Relator's Voluntary Motion to Dismiss Without Prejudice | | |

| 1 | 4. On March 3, 2014, the | e DOJ notified Relator's counsel that the DOJ consented to a |
|----|---|--|
| 2 | dismissal without prejudice as to Relator and the United States. <i>Id.</i> | |
| 3 | WHEREFORE, Relator moves this Court for a dismissal of the above-entitled action, | |
| 4 | without prejudice as to Relator and the United States. | |
| 5 | Dated: March 4, 2014 | Respectfully submitted, |
| 6 | Dated Haren 1, 2011 | • |
| 7 | | /s/ Pierce Gore Ben F. Pierce Gore (SBN 128515) |
| 8 | | PRATT & ASSOCIATES 1871 The Alameda, Suite 425 |
| 9 | | San Jose, CA 95126 Telephone: (408) 429-6506 |
| 10 | | Fax: (408) 369-0752 |
| 11 | | pgore@prattattorneys.com |
| 12 | | Don Barrett BARRETT LAW GROUP, P.A. |
| 13 | | P.O. Box 927 404 Court Square North |
| 14 | | Lexington, MS 39095 Telephone: (662) 834-2488 |
| 15 | | Toll Free: (877) 816-4443 Fax: (662) 834-2628 |
| 16 | | <u>dbarrett@barrettlawgroup.com</u> <u>donbarrettpa@gmail.com</u> |
| 17 | | Jay Nelkin |
| 18 | | NELKIN & NELKIN, P.C. 5417 Chaucer Drive |
| 19 | | P.O. Box 25303 Houston, Texas 77005 |
| 20 | | Telephone: (713) 526-4500 Facsimile: (713) 526-8915 |
| 21 | | jnelkin@nelkinpc.com |
| 22 | | Attorneys for Plaintiff |
| 23 | | |
| 24 | | |
| 25 | | |
| 26 | | |
| 27 | | |
| 28 | | |
| | | 2 |

[PROPOSED] ORDER

Good cause appearing therefor, IT IS HEREBY ORDERED that the above-captioned action is DISMISSED WITHOUT PREJUDICE AS TO RELATOR AND THE UNITED